

STATEMENT OF THE
NATIONAL BORDER PATROL COUNCIL
OF THE
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES
AFL-CIO

BEFORE THE
SUBCOMMITTEE ON CRIMINAL JUSTICE, DRUG POLICY AND HUMAN RESOURCES
COMMITTEE ON GOVERNMENT REFORM
AND THE
SUBCOMMITTEE ON ECONOMIC SECURITY,
INFRASTRUCTURE PROTECTION, AND CYBERSECURITY
COMMITTEE ON HOMELAND SECURITY
UNITED STATES HOUSE OF REPRESENTATIVES

EXPANDING THE BORDER FENCE:
CONSTRUCTION OPTIONS AND STRATEGIC PLACEMENT

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The National Border Patrol Council appreciates the opportunity to present the views and concerns of the 10,500 front-line Border Patrol employees that it represents regarding border fencing options and related issues. In order to determine what types of physical barriers should be placed at the border and the extent to which they should be utilized, it is essential to evaluate their intended purposes, the effectiveness of the various types that are in use, and the reasons that they have succeeded or failed.

The United States Border Patrol is responsible for interdicting people and contraband that illegally cross our land borders between designated Ports of Entry. Every year, Border Patrol agents apprehend more than one million illegal aliens and seize more than one million pounds of marijuana and other illegal drugs. Front-line agents estimate that for every person they apprehend, two or three manage to slip by them, and also acknowledge that they only seize a small fraction of the drugs being smuggled across the border. Although there is an increasing trend for the same criminal organizations to be involved in smuggling both people and contraband, the appropriate preventive measures and responses for each differ considerably.

During the past 15 years, the Federal Government has spent billions of dollars on various initiatives to curb the smuggling of people and drugs across our Nation's borders. When these efforts began, the majority of the illegal traffic was concentrated along the westernmost 14 miles of border, just south of San Diego, California. Within that small stretch of border, thousands of illegal aliens would gather just inside the United States on a daily basis, waiting for the opportune moment to proceed north. Bandits frequently preyed upon them, sometimes raping and/or murdering their helpless victims. Drug smuggling was rampant as well. Anarchy reigned, and there was no semblance of control over that section of the border.

In 1990, Representative Duncan Hunter began facilitating the construction of fencing fashioned from surplus military steel landing mats, as well as the placement of stadium lights, along

most of those 14 miles of border. Although these measures dramatically reduced the amount of crime, they did little to diminish the number of illegal crossings in that area. While drug seizures tapered off within several years, apprehensions of illegal aliens in the San Diego Border Patrol Sector continued to average about one-half million annually for the next six years.

In September of 1993, Representative Silvestre Reyes, who at the time was the Chief Patrol Agent of the El Paso Border Patrol Sector, launched Operation Blockade, later renamed Operation Hold-the-Line. Additional Border Patrol agents were temporarily reassigned from nearby locations and deployed at strategic crossing points along the Rio Grande River just north of Mexico to disrupt smuggling routes and prevent criminals from crossing the border. The results were immediate and dramatic. Cross-border crimes plummeted almost immediately. The following year, apprehensions of illegal aliens dropped about 72%. Unfortunately, the smuggling traffic did not disappear; it merely shifted to other areas along the border.

Encouraged by this limited success in El Paso, the Border Patrol attempted to export the strategy to San Diego the following year. However, significant differences in geography and demographics thwarted the initial efforts to replicate the results of Operation Hold-the-Line. While El Paso and Ciudad Juárez are separated by the Rio Grande River, which has few crossing points, San Diego and Tijuana are separated by land, and there are few natural barriers that deter people from crossing. Moreover, while many of the people crossing into El Paso illegally had been day laborers who returned home to Mexico every night, most of San Diego's traffic consisted of people who intended to travel to interior locations and remain there for long periods of time. San Diego remained the smuggling corridor of choice until 1997. At that point, Border Patrol staffing in the San Diego Sector had increased to about 2,100 agents, compared to about 800 in 1990.

At about the same time that a significant portion of the illegal alien traffic shifted away from San Diego, construction began on triple fencing in that area. This coincidence caused some confusion about the precise reason(s) for the displacement of the traffic. The triple fence concept was originally advocated in a January 1993 report issued by Sandia National Laboratories entitled *Systematic Analysis of the Southwest Border*. The study recommended placing a triple layer of fencing along approximately 90 miles of the southwest border's urban areas. It predicted that these multiple barriers would significantly reduce the number of illegal crossings; allow for early detection and easy apprehension of the few who attempted to cross through the multiple barriers; and channel the remainder of the traffic to remote areas where it could be readily apprehended. Experience has proven all of these forecasts to be extremely inaccurate. Even worse, these barriers have been responsible for a dramatic increase in the number and intensity of assaults against Border Patrol agents. Smugglers have adopted tactics that take advantage of agents' vulnerabilities as they patrol between these barriers, ambushing them with barrages of rocks and even gunfire. Although the Border Patrol meticulously tracks the number and types of assaults against its agents, there is no separate category for those that occur between the multiple layers of fencing. Given the large number of such assaults, this statistical gap is both puzzling and troubling.

Experience in San Diego and other parts of the border has conclusively proven that additional staffing, not fencing, is responsible for modifying smuggling patterns. When the Tucson Border Patrol Sector's area of operations became the favored smuggling corridor in 1998, only about 900 agents were assigned to patrol its 261 miles of border. By the time the smuggling traffic started to shift away from the Tucson Sector this year, staffing had increased to about 2,400. Although total nationwide apprehensions are only slightly higher this year compared with last year, they have increased about 25% in the San Diego Sector, despite the fact that most of the westernmost 14 miles

of border now has multiple layers of reinforced fencing. Staffing in San Diego has declined substantially, however, with 500 fewer agents at the present time than there were in 1997.

While barriers and fences are not the panaceas that some had predicted or hoped, they nonetheless can play a legitimate role in border security if the proper types are strategically placed in suitable locations. Barriers can be extremely effective in preventing vehicles from driving across the border between designated Ports of Entry. Such vehicles often contain large quantities of illegal drugs, and their drivers generally speed away from law enforcement officers when they are encountered. Thus, it is extremely important to prevent these types of incursions. Roads and terrain on the other side of the border will dictate where these barriers are needed most, and as some areas are secured, others will certainly emerge as problems that need to be addressed.

Additionally, strategically placed reinforced single-layer fencing can serve to channel smuggling traffic away from relatively small areas, such as heavily-populated cities. The overuse of such fencing will only cause smugglers to seek ways to circumvent it, however, by going over, under, around, or through it. These counter-strategies are already being employed in areas such as San Diego:

- Makeshift ladders welded from reinforcing steel bars, commonly known as re-bar, are often used south of the border fences to assist illegal aliens in climbing over them. Numerous illegal aliens are injured when they drop from these tall fences onto the U.S. side of the border. Border Patrol agents are instructed not to ascertain whether injured people are illegal aliens so that the Federal Government does not have to pay for their medical expenses or assign agents to guard them at hospitals. Criminal aliens are well aware of this unwritten policy and exploit it by feigning injury to gain entry into the United States without being fingerprinted and having their criminal records checked.

- It is no coincidence that almost all of the dozens of cross-border tunnels that have been discovered within the past decade run underneath reinforced border fencing. Large quantities of people and contraband can be moved through these tunnels without being detected. The potential use of these tunnels by terrorists and other criminals greatly concerns law enforcement authorities.
- Hundreds of illegal aliens walk around existing fencing every day as they cross our borders. Even if a “continuous” fence were built from the Pacific Ocean to the Gulf of Mexico, it would nonetheless require openings at designated Ports of Entry for legitimate cross-border traffic. It was once common for large groups of illegal aliens to run north through the lanes of traffic at the San Ysidro Port of Entry. This strategy would undoubtedly resurface if long stretches of fencing were built.
- Steel fencing is easily cut with a blowtorch. A hole large enough to drive a vehicle through can be cut in a ten-foot high steel fence in just a few minutes. Of course, the repairs take considerably longer.

To the extent that the current illegal immigration debate focuses on how much fencing is necessary to secure the borders, it distracts the discussion from the root cause of the problem, and delays the implementation of meaningful solutions. As long as illegal aliens can readily obtain employment in the United States, neither barriers nor increased staffing will discourage millions of impoverished people from illegally crossing our borders annually. At best, such measures will only serve to push the problem from one location to another. The only effective way to solve the illegal immigration crisis is by eliminating the employment magnet. The only sure means of achieving this goal is by implementing an employment verification system that enables employers to easily and reliably determine who has a right to legally work in this country, at the same time facilitating the

punishment of those employers who choose to disregard or disobey the law. H.R. 98, the “Illegal Immigration Enforcement and Social Security Protection Act of 2005,” achieves both of these objectives, and would be infinitely more effective at stopping illegal immigration than any amount of fencing or even additional staffing. In effect, this system would act as an “invisible fence,” providing a powerful disincentive for people to cross our borders illegally. Without the ability to work in the United States, people will simply not undertake the expensive and dangerous journey across our borders. Instead of being overwhelmed by several million illegal aliens annually, the Border Patrol would be able to concentrate its scarce resources on the thousands of criminals and handful of terrorists who are currently exploiting the weaknesses of our unsecured borders. Of course, the Border Patrol would still need substantial increases in staffing, equipment and technology in order to secure the borders against these very serious threats. H.R. 4044, the “Rapid Response Border Protection Act of 2005,” would provide many of these resources, and would also facilitate recruitment and retention efforts.

In summary, recent experience has amply demonstrated that geographic fluctuations in border smuggling activity are almost exclusively influenced by the amount of law enforcement personnel assigned to an area rather than by the length or type of fences and barriers. However, even with significant increases in staffing, the overall level of smuggling activity has grown and will continue to do so until the root cause of illegal immigration is addressed. As long as destitute illegal aliens can find work in the United States, millions of them will cross our borders every year. The failure to effectively confront this crisis leaves our borders unacceptably vulnerable to infiltration by criminals and terrorists. The security of our Nation demands swift and decisive action.